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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Minneapolis, MN 55402

EXAMINER

LAZARO, DAVID R

ART UNIT	PAPER NUMBER
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2155

MAIL DATE	DELIVERY MODE
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07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/675,881		TEJASWINI ET AL.	
	Examiner		Art Unit	
	David Lazaro		2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-30 are pending in this office action.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The full name of each inventor (family name and at least one given name together with any initial) has not been set forth (See MPEP 605.04(b)). This is particularly directed towards the applicant identified as only Tejaswini.

Drawings

3. The drawings filed 09/30/2003 are accepted by the examiner.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 8, 16 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
6. Claims 8 and 17 both state the method from which they depend is performed at least in part by software on a host system. However, computer programs not embodied on a computer readable medium do not define any

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structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. It not explicitly clear if a "host system" as claimed is necessarily intended to be limited to a computer readable medium. As such, the claims are directed to non-statutory subject matter.

7. The examiner suggests changing the language to "software on a memory of a host system", for example.

8. Similarly, claim 16 states "software embedded in a wireless network interface". It not explicitly clear if a "wireless network interface" as claimed is necessarily intended to be limited to a computer readable medium. As such, the claims are directed to non-statutory subject matter.

9. The examiner suggests changing the language to "software embedded on a memory of a wireless network interface", for example.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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11. Claims 1-3, 8-11, 16-28, 22 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2003/0177173 by Belimpasakis et al. (Belimpasakis).

12. With respect to claim 1, Belimpasakis teaches a method comprising:
collecting data regarding a current association in a wireless network (Page 3-4 [0041]-[0043] and Page 1 [0002] and [0009]: BSM collects data regarding associations in a wireless network); and

storing the data for use in future association decisions (Page 3-4 [0041]-[0043]: BSM stores collected data to guide future selections of the best access point).

13. With respect to claim 2, Belimpasakis further teaches wherein storing the data comprises storing data in a memory in a network interface (Page 3 [0041] and Page 5 [0057]-[0059]: data can be stored in any memory including the network interface memory).

14. With respect to claim 3, Belimpasakis further teaches wherein storing the data comprises storing data in host memory (Page 3 [0041] and Page 5 [0057]-[0059]: data can be stored in any memory including the host memory).

15. With respect to claim 8, Belimpasakis further teaches wherein the method is performed at least in part by software on a host system (Page 5 [0057]-[0059]).

16. With respect to claim 9, Belimpasakis teaches a method comprising:
accessing association history data for at least one access point in a wireless network (Page 3-4 [0041]-[0043]: BSM is accessed for historical data related to at least one access point); and

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selecting an access point based at least in part on the association history data (Page 3-4 [0041]-[0043]: BSM uses collected data to guide selection of the best access point).

17. With respect to claim 10, Belimpasakis further teaches wherein accessing association history data comprising accessing host memory (Page 3 [0041] and Page 5 [0057]-[0059]: data can be stored in any memory including the host memory).

18. With respect to claim 11, Belimpasakis further teaches wherein accessing association history data comprises accessing memory in a wireless network interface (Page 3 [0041] and Page 5 [0057]-[0059]: data can be stored in any memory including the network interface memory).

19. With respect to claim 16, Belimpasakis further teaches wherein the method is performed at least in part by software embedded in a wireless network interface (Page 5 [0057]-[0059]).

20. With respect to claim 17, Belimpasakis further teaches wherein the method is performed at least in part by software on a host system (Page 5 [0057]-[0059]).

21. With respect to claim 18, Belimpasakis teaches a method comprising:

collecting historical association data at a wireless network interface (Page 3-4 [0041]-[0043]: historical data is recorded and can also be received as messages over the network); and

passing the historical association data to a media access control layer running in a software driver on a host system (Page 1 [0009]: network interfaces

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such as IEEE 802.11 include a MAC layer), to allow the data to be saved using resources of the host system (Page 3-4 [0041]-[0043]: BSM stores historical association data).

22. With respect to claim 22, Belimpasakis teaches an apparatus including a medium adapted to hold machine-accessible instructions that when accessed result in a machine performing:

accessing association history data for at least one access point in a wireless network (Page 3-4 [0041]-[0043]: BSM is accessed for historical data related to at least one access point); and

selecting an access point based at least in part on the association history data (Page 3-4 [0041]-[0043]: BSM uses collected data to guide selection of the best access point).

23. With respect to claim 25, Belimpasakis teaches an apparatus comprising:

a radio interface to interact with a wireless network (Page 1 [0009]: 802.11b or DVB-T interface as examples);

a processor coupled to the radio interface, wherein the processor is adapted to maintain historical association data for at least one access point, and is further adapted to make association decisions based at least in part on the historical association data (Page 3-4 [0041]-[0043]: BSM maintains historical data related to at least one access point which is used for future selections).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 4, 14, 21, 24, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belimpasakis in view of U.S. Patent 6,629,151 by Bahl (Bahl).

26. With respect to claim 4, Belimpasakis further teaches the use of various types of data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes data throughput of the current association. Bahl teaches the collection of data information in relation to a wireless association (Col. 2 lines 3-10). This includes the data throughput (Col. 13 lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Bahl such that it further comprises wherein the data includes data throughput of the current association. One would be motivated to have this, as performance information for a given connection, such as average throughput (In Bahl: Col. 10 lines 16-23 and Col. 13 lines 36-48) would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

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27. With respect to claim 14, Belimpasakis further teaches accessing association history data comprises accessing various types of historical data information for past associations (Page 3 [0041]).

Belimpasakis does not explicitly disclose accessing an average throughput for past associations. Bahl teaches the collection of data information in relation to a wireless association (Col. 2 lines 3-10). This includes the average data throughput (Col. 13 lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Bahl such that it further comprises accessing an average throughput for past associations. One would be motivated to have this, as performance information for a given connection, such as average throughput (In Bahl: Col. 10 lines 16-23 and Col. 13 lines 36-48) would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

28. With respect to claim 21, Belimpasakis further teaches accessing association history data comprises accessing various types of historical data information for past associations (Page 3 [0041]).

Belimpasakis does not explicitly disclose accessing an average throughput for past associations. Bahl teaches the collection of data information in relation to a wireless association (Col. 2 lines 3-10). This includes the average data throughput (Col. 13 lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it

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as indicated by Bahl such that it further comprises accessing an average throughput for past associations. One would be motivated to have this, as performance information for a given connection, such as average throughput (In Bahl: Col. 10 lines 16-23 and Col. 13 lines 36-48) would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

29. With respect to claim 24, Belimpasakis further teaches accessing association history data comprises accessing various types of historical data information for past associations (Page 3 [0041]).

Belimpasakis does not explicitly disclose accessing an average throughput for past associations. Bahl teaches the collection of data information in relation to a wireless association (Col. 2 lines 3-10). This includes the average data throughput (Col. 13 lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Belimpasakis and modify it as indicated by Bahl such that it further comprises accessing an average throughput for past associations. One would be motivated to have this, as performance information for a given connection, such as average throughput (In Bahl: Col. 10 lines 16-23 and Col. 13 lines 36-48) would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

30. With respect to claim 27, Belimpasakis further teaches a processor adapted to choose an access point based on various types of historical data information for past associations, particularly looking for the best performing

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access point (i.e. - the one with better/higher performance attributes) (Page 3 [0041]).

Belimpasakis does not explicitly disclose the use of an average throughput for past associations. Bahl teaches the collection of data information in relation to the performance of a wireless association (Col. 2 lines 3-10). This includes the average data throughput (Col. 13 lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Belimpasakis and modify it as indicated by Bahl such that it further comprises a processor adapted to choose an access point that has a history of higher data throughput for past associations. One would be motivated to have this, as performance information for a given connection, such as average throughput (In Bahl: Col. 10 lines 16-23 and Col. 13 lines 36-48) would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

31. Claims 5-7, 12, 13, 15, 19, 20, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belimpasakis in view of U.S. Patent Application Publication 2001/0034796 by Zebian (Zebian).

32. With respect to claim 5, Belimpasakis further teaches the use of various types of data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a duration of the current association. Zebian teaches the collection of data information for

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network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of the durations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises wherein the data includes a duration of the current association. One would be motivated to have this, as quality information for a given connection, such as a duration of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

33. With respect to claim 6, Belimpasakis further teaches the use of various types of data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a reason for disassociation of the current association. Zebian teaches the collection of quality data information for network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of reasons for disassociations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises wherein the data includes a reason for disassociation of the current association. One would be motivated to have this, as quality information for a given connection, such as a reason for disassociation of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

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34. With respect to claim 7, Belimpasakis further teaches the use of various types of data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a number of previous associations. Zebian teaches the collection of quality data information for network access associations (Page 2 [0017] and Page 6 [0069]). This includes the number of previous associations (Page 6 [0069]: times of attempts and results of attempts).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises wherein the data includes a number of previous associations. One would be motivated to have this, as quality information for a given connection, such as a number of previous associations (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

35. With respect to claim 12, Belimpasakis further teaches the accessing of various types of historical data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a duration of a last association. Zebian teaches the collection of data information for network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of the durations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it

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as indicated by Zebian such that it further comprises accessing a duration of a last association. One would be motivated to have this, as quality information for a given connection, such as a duration of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

36. With respect to claim 13, Belimpasakis further teaches the accessing of various types of historical data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a reason for disassociation. Zebian teaches the collection of quality data information for network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of reasons for disassociations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises accessing a reason for disassociation. One would be motivated to have this, as quality information for a given connection, such as a reason for disassociation of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

37. With respect to claim 15, Belimpasakis further teaches the accessing of various types of historical data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a number of previous associations. Zebian teaches the collection of quality data information for network access associations (Page 2 [0017] and Page 6 [0069]). This includes the number of previous associations (Page 6 [0069]: times of attempts and results of attempts).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises accessing a number of previous associations. One would be motivated to have this, as quality information for a given connection, such as a number of previous associations (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

38. With respect to claim 19, Belimpasakis further teaches the accessing of various types of historical data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a duration of a last association. Zebian teaches the collection of data information for network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of the durations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises accessing a duration of a last association. One would be motivated to have this, as quality information for

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a given connection, such as a duration of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

39. With respect to claim 20, Belimpasakis further teaches the accessing of various types of historical data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a reason for disassociation. Zebian teaches the collection of quality data information for network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of reasons for disassociations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises accessing a reason for disassociation. One would be motivated to have this, as quality information for a given connection, such as a reason for disassociation of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

40. With respect to claim 23, Belimpasakis further teaches the accessing of various types of historical data information in relation to the association (Page 3 [0041]).

Belimpasakis does not explicitly disclose the data includes a duration of a last association. Zebian teaches the collection of data information for network

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access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of the durations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises accessing a duration of a last association. One would be motivated to have this, as quality information for a given connection, such as a duration of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

41. With respect to claim 26, Belimpasakis further teaches a processor adapted to choose an access point based on various types of historical data information for past associations, particularly looking for the best performing access point (i.e. - the one with better/higher performance attributes) (Page 3 [0041]).

Belimpasakis does not explicitly disclose the use of a longer association duration for past associations. Zebian teaches the collection of quality data information for the selection of network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of the durations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises a processor adapted to choose an access point that has a history of longer association duration for past

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associations. One would be motivated to have this, as quality information for a given connection, such as a duration of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

42. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belimpasakis in view of Official Notice.

43. With respect to claim 28, Belimpasakis teaches an electronic system comprising:

an antenna (Page 1 [0009]: it is inherent the mobile device would have an antenna)

a radio interface couple to the antenna to interact with a wireless network (Page 1 [0009]: 802.11b or DVB-T interface as example)

a processor coupled to the radio interface, wherein the processor is adapted to maintain historical association data for at least one access point, and is further adapted to make association decisions based at least in part on the historical association data (Page 3-4 [0041]-[0043]: BSM maintains historical data related to at least one access point which is used for future selections).

Belimpasakis does not explicitly disclose the use of an omni-directional antenna. However, the examiner takes official notice that the use of either omni-directional or directional antennas is well known in the art.

As such, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to take the system disclosed by Belimpasakis and modify it such that the antenna is an omni-directional antenna. One would

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be motivated to have this as an omni-directional antenna offers equal coverage in all directions, which would be beneficial for a system with multiple access points which vary based on the physical location of the mobile device, such as in Belimpasakis (Page 2 [0018]-[0019]).

44. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belimpasakis in view of Official Notice and in further view of Zebian.

45. With respect to claim 29, Belimpasakis further teaches a processor adapted to choose an access point based on various types of historical data information for past associations, particularly looking for the best performing access point (i.e. - the one with better/higher performance attributes) (Page 3 [0041]).

Belimpasakis does not explicitly disclose the use of a longer association duration for past associations. Zebian teaches the collection of quality data information for the selection of network access associations (Page 2 [0017] and Page 6 [0069]). This includes the collection of the durations of associations (Page 6 [0069]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Belimpasakis and modify it as indicated by Zebian such that it further comprises a processor adapted to choose an access point that has a history of longer association duration for past associations. One would be motivated to have this, as quality information for a

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given connection, such as a duration of a connection (In Zebian: Page 6 [0069]), would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

46. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belimpasakis in view of Official Notice and in further view of Bahl.

47. With respect to claim 30, Belimpasakis further teaches a processor adapted to choose an access point based on various types of historical data information for past associations, particularly looking for the best performing access point (i.e. - the one with better/higher performance attributes) (Page 3 [0041]).

Belimpasakis does not explicitly disclose the use of an average throughput for past associations. Bahl teaches the collection of data information in relation to the performance of a wireless association (Col. 2 lines 3-10). This includes the average data throughput (Col. 13 lines 36-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Belimpasakis and modify it as indicated by Bahl such that it further comprises a processor adapted to choose an access point that has a history of higher data throughput for past associations. One would be motivated to have this, as performance information for a given connection, such as average throughput (In Bahl: Col. 10 lines 16-23 and Col. 13 lines 36-48) would be useful for the BSM of Belimpasakis (In Belimpasakis: Page 3 [0041]).

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Conclusion

48. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

49. U.S. Patent Application Publication 2002/0069284 by Slemmer et al. - Discloses collection of connection quality information such as connection speed, duration, successful connections, etc..

50. WO 01/52084 A1 by Drashansky, et al. - Discloses evaluation of a plurality of network access point based on various metrics.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

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free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'David Lazaro', with a long horizontal stroke extending to the right.

David Lazaro

July 25, 2007